

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 07-CR-222

GEORGE R. WOODINGTON, JR.,

Defendant.

ORDER AND RECOMMENDATION

On July 23, 2008, the defendant filed a motion docketed as “Motion for Bond, Motion to Dismiss,” that states, in its entirety:

THE ABOVE-NAMED DEFENDANT, by his attorney Alan D. Eisenberg, moves this Honorable Court to dismiss, pursuant to *District of Columbia* [sic] *et al. V. Heller* No. 07-290 (decided June 26, 2008), copy to be forwarded to the Court under separate cover.

(Docket No. 19.)

There is no actual motion for bond, and the defendant was released on conditions on January 30, 2008. Pretrial motions were due in this case no later than February 19, 2008. (Docket No. 6.) A jury trial has been scheduled for August 25, 2008. The defendant presents no explanation as to why good cause exists to excuse this untimely filing. Therefore, the defendant’s motion shall be denied as untimely.

In the alternative, if this court were to consider the motion on its merits, the defendant provides no explanation as to why he is entitled to dismissal of the indictment. The defendant is charged with being a felon in possession of numerous firearms. (Docket No. 1.) The Court

explicitly stated in Heller, “Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons” District of Columbia v. Heller, 128 S. Ct. 2783, 2008 U.S. LEXIS 5268, 95 (2008). Therefore, in addition to being untimely, this court concludes that the defendant’s motion is without merit.

IT IS THEREFORE ORDERED that the defendant’s motion is **denied** as untimely. In the alternative,

IT IS RECOMMENDED that the district judge deny the defendant’s motion to dismiss on its merits.

Your attention is directed to 28 U.S.C. § 636(b)(1)(A), (B) and (C) and General Local Rule 72.3 (E.D. Wis.), whereby written objections to any order or recommendation herein or part thereof may be filed within ten days of the date of service of this recommendation and order. Objections are to be filed in accordance with the Eastern District of Wisconsin's electronic case filing procedures. Courtesy paper copies of any objections shall be sent directly to the chambers of the district judge assigned to the case. Failure to file a timely objection with the district court shall result in a waiver of your right to appeal.

Dated at Milwaukee, Wisconsin this 25th day of July 2008.

s/AARON E. GOODSTEIN
U.S. Magistrate Judge